

The complaint

Mr M complains about a false application marker recorded by CA Auto Finance UK Ltd (CAAF).

Throughout his complaint, Mr M has used a representative. But, for ease, I'll just refer to Mr M.

What happened

In March 2023, Mr M says his daughter saw a car she wanted to buy at a dealership. To pay for the car, Mr M's daughter applied for finance with CAAF. However, her application was declined by CAAF.

Later that day, Mr M says he decided to buy the same car, from the same dealership. He says he approached the same salesperson who served his daughter, and applied for finance with CAAF. At the time of the application, Mr M says the dealer was aware his daughter had tried to buy the car previously. Mr M also says that he told the salesperson he was considering adding his daughter as a named driver of the car on his insurance policy.

But, Mr M's application for finance was also declined. CAAF says the application wasn't successful, because they suspected Mr M of attempting to front the agreement. In other words, CAAF thought it was Mr M's intention to allow his daughter to have permanent use of the car.

Just over a year later, Mr M says he noticed a marker on his credit file. And after talking to a national fraud database service, he saw that CAAF had loaded a false application marker with credit reference agencies. The marker told potential lenders that CAAF suspected Mr M of making one or more falsehoods, during his application process for the finance agreement. Mr M says he didn't give false information to CAAF when he tried to buy the car. So, Mr M complained to CAAF and asked them to remove the false application marker.

In their response to Mr M's complaint, CAAF said that Mr M had tried to mislead them during the finance application. They said Mr M had tried to get finance to buy the car for his daughter and refused to remove the information passed to the national database. Mr M didn't accept CAAF's response and brought his complaint to this service.

One of our investigators looked into Mr M's complaint and found that CAAF hadn't treated Mr M fairly. He said the dealer had a responsibility to make Mr M aware of the potential consequences of making an application. He also wasn't persuaded that Mr M gave any false information during the finance application, or attempted to mislead CAAF.

Furthermore, the investigator found that CAAF had caused Mr M worry, leading from the application process. So, the investigator asked CAAF to remove the false application marker from the national database and to pay Mr M £150 for the distress and inconvenience caused.

Neither CAAF nor Mr M accepted the investigator's findings. CAAF maintained their view

that Mr M had tried to mislead them. Mr M asked the investigator to consider requiring CAAF to reimburse him for the legal costs he says he incurred in trying to sort things out.

The investigator explained to each party why he didn't think it fair to ask CAAF to compensate for Mr M's legal costs and didn't change his conclusions. So, Mr M's complaint has now been passed to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

From what I've seen, this case is about an application for a hire purchase agreement in Mr M's name. This type of finance is a regulated financial product. As such, we are able to consider complaints about it.

Mr M wanted to acquire the car through a hire purchase agreement. Section 56 of the Consumer Credit Act 1974 (CCA) has the effect of making the dealer the agent of CAAF during the "antecedent negotiations".

These negotiations were in the lead up to Mr M entering into the loan agreement, starting from when he first spoke to the dealer. But essentially, this means CAAF are responsible for the acts or omissions of the dealer in relation to the sale of the car to Mr M. In other words, CAAF have to stand behind the things the dealer said, did, didn't say, or didn't do during the sales process.

CAAF have provided us with screen shots of the applications made by Mr M and his daughter. From looking at this information, I can see where both Mr M and his daughter tried to use finance with the same dealership to buy the same car. The records also show that Mr M's application was made a short time after his daughter's and they were both processed by the same salesperson. Mr M says the salesperson was aware of the connection between himself and his daughter.

I've thought carefully about the lead up to the salesperson making the applications. On balance, I'm persuaded by what Mr M says, in that the salesperson had knowledge that Mr M was applying for finance shortly after his daughter's failed application.

Furthermore, I've looked at the recent email correspondence between CAAF and the dealer. Having done so, I can see where CAAF acknowledges that the dealer could have prevented Mr M's application. And that by processing the application, it has led to the situation Mr M now finds himself in.

Overall, I think the salesperson at the dealership had a responsibility to have at least told Mr M of the potential problems, of applying for finance to buy the same car as his daughter had shown interest in. Given the seriousness of the action CAAF went on to take, I think there was an onus on the dealer to have prevented Mr M from making the finance application.

Had the dealer spoken to Mr M about the consequences he could face, I'm persuaded Mr M would have made a different choice. Either to walk away without a car, or to explore the purchase of a different vehicle.

I've found that CAAF are responsible for what the dealer did or didn't do during the sales process. It then follows that I think CAAF are responsible for the lack of warning given to Mr M.

Aside from how the application for the hire purchase agreement was processed, I also need to consider whether the report to a national fraud database was made fairly.

On this point, CAAF needed to have more than just a suspicion or concern, but they were not required to prove beyond all reasonable doubt that Mr M had done something wrong. CAAF needed to be able to show they had reasonable grounds to believe that fraud or a financial crime had been committed or attempted, with appropriate supporting evidence.

CAAF have recorded a marker with the national database which shows the reader that Mr M had made one or more falsehoods during the finance application. I've looked at the records of the application and I cannot see where Mr M gave the dealer false or inaccurate information. Indeed, CAAF haven't raised any concerns about any of Mr M's personal or financial details, and their suspicions seem to be based solely on the timing of the application and the car Mr M wanted.

Throughout his complaint with CAAF and us, Mr M has been consistent in saying he wanted the car for himself, rather than simply buying it for his daughter. I cannot see through any of the correspondence where Mr M has said his daughter would be the keeper, or the main insured driver.

I can see from CAAF's records that they had concerns about the legitimacy of the finance agreement. But, I don't think CAAF did enough to rigorously test their suspicion that Mr M had committed fraud or a financial crime. Given my conclusions about the dealer's responsibility, I think it would have been fair to have allowed Mr M an opportunity to explain what had happened, before CAAF took the decision to apply the marker.

In all the circumstances, I don't think CAAF made attempts at enough depth to clarify their concerns about Mr M, to be able to confidently report what had happened to the police. So, I think CAAF have treated Mr M unfairly and they should put the matter right. Overall, I think it's fair for CAAF to remove the false application marker they recorded with the national database in March 2023.

Mr M has explained to us that he involved his solicitor, to try and resolve his concerns with CAAF. He says the false application marker has made it difficult to go about his business interests, so needed legal support. Because of this, Mr M would like CAAF to reimburse his legal costs as part of the settlement to this complaint.

While I acknowledge Mr M's reasons for asking us to consider this, I also need to keep in mind that it was his decision to ask his solicitor to help. CAAF sent Mr M their final response to his complaint in May 2024, which said he was able to refer his case to us free of charge. Therefore, I think Mr M had an opportunity to ask us to investigate his concerns, before he involved a solicitor. So, I don't think it would be fair to ask CAAF to reimburse the legal costs Mr M has told us about.

That said, I do agree that CAAF have caused Mr M worry by allowing their dealer to process the application for finance, and he has lived with the knowledge that he has been accused of making a false application. So, I think it's fair and reasonable for CAAF to make a payment to Mr M to reflect the worry he has been caused.

Having considered everything, I think it's fair for CAAF to pay Mr M £150 for the distress and inconvenience he experienced when CAAF recorded the false application marker with the national database.

Putting things right

For these reasons CA Auto Finance UK Ltd should:

- Remove the false application marker recorded with the national database in March 2023, against Mr M's name; and
- Pay Mr M £150 for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint and require CA Auto Finance UK Ltd to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 October 2025.

Sam Wedderburn
Ombudsman